

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL NO 08-50-1
	:	
JOSEPH SMITH	:	
and	:	
CYNTHIA McDONOUGH	:	CRIMINAL NO. 08-50-2

ORDER

AND NOW, this _____ day of March, 2009, upon consideration of Defendants' Motion to Withdraw Defendants' Joint Motion for Judgment of Acquittal and/or New Trial and for Leave to Supplement, IT IS HEREBY ORDERED that Defendants' Joint Motion for Judgment of Acquittal and/or New Trial and for Leave to Supplement is hereby WITHDRAWN.

IT IS FURTHER ORDERED, that the Clerk is directed to strike from the docket in the above matter "Defendants' Joint Motion for Judgment of Acquittal and/or New Trial and for Leave to Supplement" (Docket No 80) filed on January 29, 2009.

PADOVA, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL NO. 08-50-1
	:	
JOSEPH SMITH	:	
and	:	
CYNTHIA McDONOUGH	:	CRIMINAL NO. 08-50-2

**MOTON TO WITHDRAW
DEFENDANTS' JOINT MOTION FOR JUDGMENT OF ACQUITTAL
AND/OR NEW TRIAL AND FOR LEAVE TO SUPPLEMENT**

Defendants, Joseph Smith and Cynthia McDonough, by and through their undersigned counsel, hereby move to withdraw their previously filed Joint Motion for Judgment of Acquittal and/or New Trial and for Leave to Supplement, and in support hereof, Defendants state the following:

1. On or about January 29, 2007, a grand jury sitting in the Eastern District of Pennsylvania returned the Indictment in this matter.

2. Specifically, the grand jury charged Defendants as follows:

<u>Count</u>	<u>Charge</u>	<u>Defendant(s) Charged</u>
1	Conspiracy to defraud the United States – 18 U.S.C. §371	Joseph Smith Cynthia McDonough
2	Failure to file personal income tax return (2001) - 26 U.S.C. §7203	Joseph Smith
3	Failure to file personal income tax return (2002) - 26 U.S.C. §7203	Joseph Smith
4	Failure to file personal income tax return (2003) - 26 U.S.C. §7203	Joseph Smith

<u>Count</u>	<u>Charge</u>	<u>Defendant(s) Charged</u>
5	Filing false corporate tax return (Universal Collision Center, Inc. - 2002) - 26 U.S.C. §7206(1)	Joseph Smith
6	Filing false personal tax return (2003) - 26 U.S.C. §7206(1)	Cynthia McDonough
7	Filing false corporate tax return (Precision Auto Body Rebuilders, Inc. - 2003) - 26 U.S.C. §7206(1)	Cynthia McDonough
8	Filing false personal tax return- (2004) - 26 U.S.C. §7206(1)	Joseph Smith
9	Filing false Personal tax return (2004) - 26 U.S.C. §7206(1)	Cynthia McDonough
10	Filing false corporate tax return (Precision Auto Body Rebuilders, Inc. - 2004) - 26 U.S.C. §7206(1)	Cynthia McDonough

3. On or about January 9, 2009, Defendants proceed to trial in this matter.

4. On or about January 22, 2009, the jury found Defendants guilty on all counts submitted for jury consideration.¹

5. On January 29, 2009, undersigned counsel filed a Motion for New Trial and Judgment of Acquittal.

6. In that Motion, counsel, on behalf of both Defendants requested leave to supplement the Motion upon review of the transcript.

7. After careful consideration of the matter, Defendants now desire to proceed to sentencing without further litigation over the merits of their convictions.

¹ Count 8 was dismissed by stipulation.

WHEREFORE, for all of the above reasons, it is respectfully requested that this Court allow Defendants' to withdraw their previously filed Joint Motion for Judgment of Acquittal and/or New Trial and for Leave to Supplement (Docket Entry No. 80).

Respectfully submitted,

MARK E CEDRONE & ASSOCIATES, P C.

Dated: March 6, 2009

By: /s/ Mark E. Cedrone
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Dated: March 6, 2009

By: /s/ Michael J. Diamondstein
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(215) 940-2700
Attorney for Defendant Cynthia McDonough

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed electronically and is available for viewing and downloading from the ECF System and was served this 6th day of March, 2009 via the Court's ECF System as follows:

Joseph Minni, Esquire
Assistant United States Attorney
United States Attorney's Office
615 Chestnut Street – Suite 1250
Philadelphia, PA 19106

/s/ Mark E. Cedrone
MARK E CEDRONE